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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,597	10/29/2003	Michael S. Lockard	P-US082-A-MF	7857
32107	7590	11/14/2007		
MICROFABRICA INC. ATT: DENNIS R. SMALLEY 7911 HASKELL AVENUE VAN NUYS, CA 91406			EXAMINER BAREFORD, KATHERINE A	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 11/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/697,597	Applicant(s) LOCKARD ET AL.	
	Examiner Katherine A. Bareford	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 23, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.
- Claims 6-22 and 24-26 are canceled*

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment of September 26, 2007 (in response to the Notice of Non-Compliant Amendment of September 20, 2007) has been received and entered. With the entry of the amendment, claims 6-22 and 24-26 have been canceled, and claims 1-5, 23, 27 and 28 remain pending for examination.

Election/Restrictions

2. The Examiner notes that non-elected claims 6-22 and 24-26 have been canceled.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 27 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 27, part (a) now requires that one of the material of the layer "comprises and electrodeposited metal material" and at least another one of the layers comprises a

material deposited by thermal spraying or powder material prior to spraying.

However, in part (b) (1), the depositing of the first material and the depositing of the second material is not limited as to how they are deposited, and in the disclosure as originally provided, it is indicated that when electrodeposition and thermal spraying/powder deposition are used the first material with void formation is applied by electrodeposition and the second material is applied by thermal spraying/powder deposition, and the opposite is not provided (see paragraph [62] of the specification). Therefore, the scope of claim 27 as now worded is beyond the scope of the originally filed application, and claim 27 contains new matter.

vb Claim 2⁸₉ does not cure the defects of the claim from which it depends.

Claim Rejections - 35 USC § 102

5. The rejection of claims 1, 2, 4, 5, 23, 27 and 28 under 35 U.S.C. 102(b) as being anticipated by Nagashima et al (US 4412377) is withdrawn due to the amendments to the claims of September 26, 2007 requiring electrodeposition.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 2, 5, 23, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen, et al "EFAB: Batch Production of Functional, Fully-Dense Metal Parts with Micron-Scale Features" Article (hereinafter Cohen Article) (provided with applicant's IDS statement of September 10, 2007) in view of Elarde (US 4532152) and Lane (US 3880723).

Claims 1, 27: Cohen Article teaches a process for forming a multilayer three-dimensional structure. See pages 161, 163, 164. A layer comprising a plurality of material is adhered to the first, previously formed layer on the substrate. See figures 2(d) and 2(e) and page 164 (built up 2 material layers are provided, so after the first 2 material layer is provided, the further layers are formed and adhered over the first

layer). The forming and adhering is repeated at least once to build up a three-dimensional structure from a plurality of adhered layers. Figures 2(d)--2(f) and page 164. The forming of at least one of the plurality of adhered layers comprises (1) obtaining a selective pattern of deposition of a first metal material having at least one void by selectively depositing a first material onto a previously formed layer such that at least one void remains. Figures 2(a)–(e) and pages 164 and 165 (material can be copper, for example). The first metal material is deposited by electrodeposition. Page 163-164. Then (2) a second material is deposited into the at least one void by blanket deposition of a second material over the first material. Figures 2(c)–2(e) and pages 163-165 (the second material can be nickel). After the first and second materials are applied, the entire two material layer is lapped (planarized) to achieve precise thickness and planarity. Figures 2(d)–2(e) and page 164. After the plurality of two material layers have been formed (Figure 2(e)), the first metal (sacrificial metal) is removed from the plurality of layers to reveal the three-dimensional device. Figure 2(f) and pages 164-165.

Claim 2: at least one planarization operation can be performed during the forming of a layer. Figures 2(d)-2(e) and page 164 (After the first and second materials are applied, the entire two material layer is lapped (planarized) to achieve precise thickness and planarity).

Claim 5: after the depositing of the second material by blanket deposition, during the forming of at least one layer, a subsequent operation is performed that modifies the

second material. Figures 2(d)-2(e) and page 164 (After the first and second materials are applied, the entire two material layer is lapped (planarized) to achieve precise thickness and planarity, which modifies the second material by removing second material).

Claims 23, 28: the forming of the plurality of adhered layers comprises forming at least two layers of the plurality of adhered layers. Figure 2(e) and page 164 (at least 6 layers are demonstrated).

Cohen Article teaches all the features of these claims except that the second material is deposited by thermal spraying.

However, Elarde teaches that it is well known to use either metal layers formed with thermal (flame spraying is a form of thermal spraying) spraying or metal layers formed ^{with} electrodeposition (electroplating) interchangeably when making micron order thickness for electronic circuit boards for example. See column 1, line 60 through column 3, line 10, column 4, line 25 through column 5, line 65. The layers can be applied in a blanket fashion over the surface and then planarized to the desired level to fill a channel void. Column 4, line 60 through column 5, line 20, column 5, lines 50-60 and column 6, lines 10-25.

Moreover, Lane teaches that it is well known to perform blanket spraying of a coating material by thermal spraying (plasma spraying is a form of thermal spraying) over a electroformed patterned metal layer with voids to fill the void area. column 2, lines 40-60 and figures 3-4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cohen Article to apply the blanket layer by a thermal spraying process rather than an electrodeposition process as suggested by Elarde and Lane with an expectation of a desirable method of applying a blanket layer, as Cohen Article teaches to form a patterned metal layer containing voids by electrodeposition and to blanket overplate this layer by electrodeposition and then planarizing this blanket layer to fill the voids in the first metal layer, and Elarde teaches that when applying a metal layer by blanket application that will be planarized to fill a void for the electronic application of a circuit board, it is well known to interchangeably use an electrodeposited or thermally sprayed material, and Lane further teaches that it is well known that thermally sprayed material can be blanket deposited over an electroformed, pattern metal layers to fill void areas.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen Article in view of Elarde and Lane as applied to claims 1, 2, 5, 23, 27 and 28 above, and further in view of Amateau, et al "High-Velocity Particle Consolidation Technology", iMAST Quarterly 2000, No. 2, pages 3-6 (hereinafter Amateau Article).

Cohen Article in view of Elarde and Lane teaches all the features of these claims except that the thermal spraying method is a high velocity particle consolidation (HVPC) spraying process.

However, Amateau Article teaches that HVPC is a known thermal spray application method that offers improvements over other conventional thermal spraying methods such as plasma or flame spraying, with HVPC offering lower deposition temperatures eliminating problems associated with recrystallization in both coating and substrates, as well as other benefits. Pages 3-4. The coatings can be applied in patterns with masking. Page 4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cohen Article in view of Elarde and Lane to use HVPC as the thermal spraying method to apply the copper and ceramic layers as suggested by Amateau Article with an expectation of providing a desirably improved coating, because Cohen Article in view of Elarde and Lane teaches application using conventional thermal spray methods of plasma and flame spraying and Amateau Article teaches that the thermal spray method of HVPC offers improved benefits over conventional thermal spray methods such as flame or plasma spraying, including offering lower deposition temperatures eliminating problems associated with recrystallization in both coating and substrates.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen Article in view of Elarde and Lane as applied to claims 1, 2, 5, 23, 27 and 28 above, and further in view of Thermal Spraying: Practice, Theory, and Application "(hereinafter TS).

Cohen Article in view of Elarde and Lane teaches all the features of these claims except that the thermal spraying method provides a porous layer of the second material, and to infiltrate it would a third material.

However, TS teaches that it is known that thermal spray coatings are inherently porous. Page 108, section 8.1.1. TS further teaches that it is well known to use sealers to fill such pores to, for example, prevent contaminants from entering the coating. Page 108, section 8.1.1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cohen Article in view of Elarde and Lane to use a sealer material (a third material) to infiltrate the pores of the thermally sprayed coating as suggested by TS with an expectation of providing a desirably contaminant free coating, because Cohen Article in view of Elarde and Lane teaches application using conventional thermal spray methods of plasma and flame spraying and TS teaches that such thermal sprayed coatings are inherently porous and further teaches that it is well known to provide sealers to fill (infiltrate) the pores of the coating to prevent contaminants from entering.

Response to Arguments

11. Applicant's arguments with respect to claims 1-5, 23, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (571) 272-1413. The examiner can normally be reached on M-F(6:00-3:30) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Other inquiries can be directed to the Tech Center 1700 telephone number at (571) 272-1700.

Art Unit: 1792

Furthermore, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KATHERINE BAREFORD
PRIMARY EXAMINER